

# MISSOURI SUPREME COURT RULING: AN UPDATE ON UNILATERAL MISTAKE AND PARTY INTENT IN ESTATE PLANNING

As we [previously reported on May 3, 2022](#), in April 2022, the Missouri Court of Appeals in *Singleton v. Singleton, et al.*, held that a mistake in a deed is purely unilateral (i.e., a mistake of the grantor) when a scrivener acts under the sole direction of a grantor, without any direction from, and in the absence of, the grantee. This unpublished opinion reaffirmed the long-held view by Missouri courts that a deed may only be reformed because of a mistake, if such mistake is mutual in nature.

The case was transferred to the Supreme Court of Missouri and on Jan. 31, 2023, the Supreme Court published its opinion, agreeing with the Missouri Court of Appeals and its refusal to reform the deed at issue for lack of a mutual mistake. In so doing, the Supreme Court emphasized the importance of party intent within the four corners of a deed.

In *Singleton*, an attorney was hired by a testator (person making a will) and her now-deceased husband to draft and assist with execution of deeds for two tracts of land. However, a mistake was made on one of the deeds, which resulted in the testator's now-deceased child being named as a future interest holder on both deeds, instead of only one. The testator filed a lawsuit in the Circuit Court of Stoddard County, Missouri (County Circuit Court), in an attempt to reform or set aside the incorrect deed on the grounds that she did not intend for the now-deceased child to receive an interest in both tracts of land, only one. The testator and the attorney who prepared and recorded both deeds each testified to the mistake and attempted to prove, through their testimony, that the testator and her now-deceased husband did not intend for the deeds to name the now-deceased child as remainderman for both deeds. The reformation action was contested by the testator's grandchildren (the children of the testator's now-deceased child who would ultimately take an interest in both tracts of land if the mistaken deed was upheld).

The County Circuit Court allowed the incorrect deed to be reformed to exclude the deceased child, and the testator's grandchildren (the deceased child's

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children) appealed the ruling. In reversing the judgment and remanding back to the County Circuit Court with directions to enter judgment denying testator's reformation claim, the Missouri Court of Appeals found that, in the absence of fraud, deception or other bad faith activities by other parties, a unilateral mistake in a deed (i.e., here, one made only by the testator/grantor and not by the deceased child/grantee) cannot be reformed.

The testator filed a request for rehearing with the Court of Appeals on April 20, 2022, on the basis that the Court of Appeals misapplied the law when it reversed the trial court's decision and remanded back down to deny reformation. The request for rehearing was denied. The testator then filed an application for transfer to the Supreme Court on May 10, 2022, which was granted.

The Supreme Court denied the testator's argument that the deed should be reformed because the attorney's error in the deeds did not reflect the parties' intent. As explained at length in the Court of Appeals opinion, which the Supreme Court adopted, "the law permits reformation of instruments to reflect the true intention of the parties when the error has arisen by the unilateral mistake of one party and that mistake is accompanied by clear and convincing evidence of some sort of fraud, deception or other bad faith activities by the other party that prevented or hindered the mistaken party in the timely discovery of the mistake." Because the deed at issue here was prepared at the sole direction of the testator and her husband, with no direction, nor in the presence of the grantees (i.e., the now-deceased child), the mistake in the deed was solely the mistake of the testator and her husband. By denying reformation on the grounds of unilateral mistake, the Supreme Court reaffirmed the Court of Appeals' previous opinion that reformation for a unilateral mistake "is an extraordinary equitable remedy and should be granted with great caution and only in clear cases of fraud or mistake."

Testator also attempted, to no avail, to apply the case of *Kemna v. Graver* to support her position that equity will reform a unilateral mistake in a voluntary instrument in the absence of fraud, deception or bad faith. *Kemna v. Graver*, 630 S.W.2d 160, 161 (Mo.App. E.D. 1982). In *Kemna*, a brother sought reformation of a voluntary conveyance he made to his sister after discovering a mistake in the deed. In that case the Eastern District of the Missouri Court of Appeals held "that equity will reform a voluntary instrument of conveyance at the suit of the donor when the instrument does not express the donor's intent in making the gift." *Id.* However, the Supreme Court was quick to distinguish *Singleton* from *Kemna*, as unlike the brother in *Kemna*, the testator's husband in this case is not alive to speak to his intent or any mistake.

The testator's grandchildren argued that the circuit court erred in entering its judgment reforming the deed because it erroneously misapplied the law by relying on parol evidence (i.e., evidence found outside the four corners of the



deed) when the deed at issue was unambiguous on its face, and the attorney's testimony failed to create an ambiguity. The Supreme Court relied on long-held Missouri law that the contract alone should be examined "to determine the parties' intent unless the contract is ambiguous." Further, "an ambiguity exists when there is duplicity, indistinctness, or uncertainty in the contract's language, which means it is reasonably open to different constructions." Applying these rules, the Supreme Court held that "there is no duplicity, indistinctness, or uncertainty on the deed's face or in its plain language that reasonably would be open to different constructions" and accordingly, found the deed unambiguous on its face.

The Supreme Court in *Singleton* makes clear that Missouri courts will hesitate to infer a party's intent to be anything other than what is plainly and unambiguously expressed in the deed, especially if such party is now deceased. Missouri law is clear that the importance of the parties' intent is paramount, and courts will not fish outside the four corners of an instrument to deviate from the stated or apparent intent. Ultimately, parties will want to take an active role in creating and reviewing documents prior to execution to help prevent outcomes such as the one seen in *Singleton*. It reminds us that the signing of any legal document, but especially estate planning documents such as deeds, constitutes a clear confirmation of a client's intent and understanding of the document, the consequences of which can last well beyond the passage of time.